

SUPREME COURT OF MONTANA

Pompeys Pillar Historical Association v. Montana Department of Environmental Quality and United Harvest, LLC

313 Mont. 401, 2002 MT 352 (2002) · No. No. 02-341 · Decided December 30, 2002

SUMMARY

The Supreme Court of Montana affirmed dismissal of the Pompeys Pillar Historical Association’s petition for review for lack of subject matter jurisdiction. The court held that the Association challenged the sufficiency of an environmental assessment and the decision not to prepare an environmental impact statement under the Montana Environmental Policy Act, rather than air-quality issues governed by the Clean Air Act of Montana. Because MEPA did not authorize administrative contested-case review of those challenges, the district court lacked jurisdiction to review the administrative proceedings.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Jim Regnier; Jim Regnier; Karla M. Gray; Patricia Cotter; Jim Rice; Terry N. Triewelier
JURISDICTION	Montana
DECIDED	December 30, 2002
DOCKET	No. 02-341
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Association appealed the First Judicial District Court's dismissal of its petition for judicial review for lack of subject matter jurisdiction.
STANDARD OF REVIEW	The court reviewed the district court's determination that it lacked jurisdiction as a conclusion of law and reviewed the legal interpretation for correctness.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	Pompeys Pillar Historical Association v. Montana Department of Environmental Quality, United Harvest, LLC

TOPICS

judicial review of agency action

administrative procedure act

agency adjudication

environmental impact review

appellate procedure

PRACTICE AREAS

administrative law

environmental law

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court had subject matter jurisdiction to review administrative proceedings concerning the adequacy of a MEPA environmental assessment and the decision not to prepare an environmental impact statement.
2. Whether the Association was entitled to pursue those MEPA challenges through a contested-case proceeding before the Board of Environmental Review.

HOLDINGS

1. The Association was not entitled to administrative contested-case review because its challenge concerned compliance with the Montana Environmental Policy Act, not air-quality issues governed by the Montana Clean Air Act. MEPA did not provide a corresponding contested-case procedure before the Board of Environmental Review.
2. The district court lacked jurisdiction to review the Board's determination because the administrative law judge and Board lacked jurisdiction over the Association's MEPA challenge. The dismissal for lack of subject matter jurisdiction was proper.

KEY QUOTATIONS

“Since MEPA governs environmental review, and since MEPA requires a party to bring a compliance challenge before a “court” or “district court,” the administrative law judge and Board did not have jurisdiction to hear the Association’s challenge.” (2002 MT 352, ¶ 21)

“Consequently, the District Court did not err when it dismissed the Association’s petition for review for lack of subject matter jurisdiction.” (2002 MT 352, ¶ 21)

FACTUAL BACKGROUND

United Harvest proposed a high-speed grain-loading terminal approximately one-half to three-quarters of a mile from Pompeys Pillar National Monument and applied to the Department of Environmental Quality for an air-quality permit. DEQ conducted an environmental assessment, concluded that the project would not detrimentally affect the surrounding environment, and determined that an environmental impact statement was unnecessary. The Association challenged the adequacy of the environmental assessment and the decision not to prepare an environmental impact statement, rather than raising issues concerning the substantive air-quality permit.

PROCEDURAL HISTORY

United Harvest obtained an air-quality permit from the Montana Department of Environmental Quality. The Association challenged the adequacy of the environmental assessment and the decision not to prepare an environmental impact statement in administrative proceedings. An administrative law judge recommended remand, but the Board of Environmental Review rejected that recommendation and affirmed the permit. The district court dismissed the Association's subsequent petition for judicial review for lack of subject matter jurisdiction, and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Threlkeld v. Colorado, 2000 MT 369, ¶ 7, 303 Mont. 432, ¶ 7, 16 P.3d 359, ¶ 7
- Carbon County v. Union Reserve Coal Co., Inc., 271 Mont. 459, 469, 898 P.2d 680, 686 (1995)